

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

JOSEPH GRILLO, <i>pro se</i>	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 2020-CV-0417-JJM-PAS
	:	(R.I. Superior Court C.A. PC-2020-5326)
ERIC LYNN ANDRIST,	:	
	:	
Defendant	:	

**DEFENDANT’S MEMORANDUM IN SUPPORT OF
MOTION TO STRIKE OR, ALTERNATIVELY,
MOTION TO FILE RESPONSIVE MEMORANDUM**

Defendant submits this Memorandum in support of his Motion to strike Plaintiff’s sur-reply memorandum (CM/ECF 17-1) and supporting affidavit (CM/ECF 17-2) or, alternatively, for leave to file responsive papers within seven (7) days. Defendant does not move to strike CM/ECF 17, which is Plaintiff’s Reply in further support of his Motion for Preliminary Injunction (CM/ECF 11).

On September 25, Defendant filed a Motion for relief under Rhode Island’s anti-SLAPP law, R.I.G.L. §9-33-2. CM/ECF 5. Plaintiff filed an objection with supporting papers on October 21. CM/ECF 10.¹ Defendant filed a reply memorandum (with supporting papers) on October 27. CM/ECF 12. Plaintiff filed sur-reply papers (CM/ECF 17-1 and 17-2) on November 2.

Local Rule Cv 7(a)(5) provides that sur-replies “may only be filed with prior leave of Court.” Plaintiff did not request leave of Court prior to filing this sur-reply, and a review of the sur-reply and accompanying affidavit supports the conclusion that these papers (1) raise new

¹ At Plaintiff’s request, Defendant assented to Plaintiff’s Motion to extend the deadline to respond. The Court granted the Motion.

issues that could have been raised in Plaintiff's original objection and/or (2) contain further personal attacks that do not assist the Court in deciding the legal merits of the issues before it. As a result, the Court should deny leave to file this sur-reply should Plaintiff seek it after the fact. *Compare* Local Rule Cv 7(a)(4) ("A reply shall not present matters that do not relate to the response, or reargue or expand upon the argument made in support of the motion"). Alternatively Defendant requests leave to file, within seven (7) days, papers in response to CM/ECF 17-1 and 17-2.

Respectfully submitted,

Defendant Eric Lynn Andrist

By his attorney,

/s/ Samuel D. Zurier
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November 2, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of November, 2020, I served a copy of this Motion to Strike through the Court's CM/ECF system and by first class mail, postage prepaid, upon Plaintiff at the following address:

Joseph Grillo
73 Primrose Hill Road
Barrington, RI 02806

/s/ Samuel D. Zurier